

**EIGHTY-SEVENTH GENERAL ASSEMBLY
2018 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

April 18, 2018

Clip Sheet Summary

Displays all amendments, fiscal notes, and conference committee reports for previous day.

Bill	Amendment	Action	Sponsor
<u>HF 2131</u>	<u>H-8384</u>	Filed	MOMMSEN of Clinton
<u>HF 2342</u>	<u>H-8382</u>	Filed	RECEIVED FROM THE SENATE
<u>HF 2397</u>	<u>H-8383</u>	Filed	RECEIVED FROM THE SENATE
<u>HF 2487</u>	<u>H-8385</u>	Filed	KLEIN of Washington

Fiscal Notes

[HF 2478 — Sales Tax on Construction Equipment Purchased by Dealers \(LSB6178HV.1\)](#)

HOUSE FILE 2131

H-8384

1 Amend House File 2131 as follows:

2 1. Page 1, by striking lines 4 and 5 and inserting <rented
3 by the same person for a period of more than thirty-one
4 consecutive days, except for lodging located in a hotel, motel,
5 or inn.>

By MOMMSEN of Clinton

H-8384 FILED APRIL 17, 2018

SENATE AMENDMENT TO
HOUSE FILE 2342

H-8382

1 Amend House File 2342, as amended, passed, and reprinted by
2 the House, as follows:

3 1. Page 1, lines 13 and 14, by striking ~~<of, or direct the~~
4 ~~disposal of,>~~ and inserting <of, or direct the disposal of,>

5 2. Page 1, line 21, by striking ~~<commission or disposed of~~
6 ~~and>~~ and inserting <commission, or disposed of, or>

7 3. Page 2, line 3, after <481.13A> by inserting <unless
8 the property is fish or wildlife that is illegal to possess,
9 including fish or wildlife that was taken, possessed, or
10 transported unlawfully>

11 4. Page 2, line 9, after <seized.> by inserting <However,
12 the state shall not return any fish or wildlife that is
13 illegal to possess, including fish or wildlife that was taken,
14 possessed, or transported unlawfully.>

15 5. Page 5, line 9, after <6.> by inserting <a.>

16 6. Page 5, after line 21 by inserting:

17 <b. The department shall provide a form on which a person
18 purchasing property seized pursuant to section 481A.12 or
19 483A.32 shall declare that the person is not an employee of the
20 seizing public agency or a member of the immediate family of an
21 employee of the seizing public agency.>

H-8382 FILED APRIL 17, 2018

SENATE AMENDMENT TO
HOUSE FILE 2397

H-8383

1 Amend House File 2397, as passed by the House, as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. NEW SECTION. 671A.1 Limitation on liability
5 for negligently hiring or failing to supervise an employee,
6 agent, or independent contractor convicted of a public offense.

7 1. A cause of action shall not be brought against a private
8 employer, general contractor, or premises owner solely for
9 negligently hiring or failing to adequately supervise an
10 employee, agent, or independent contractor, based on evidence
11 that the employee, agent, or independent contractor has been
12 convicted of a public offense as defined in section 701.2.

13 2. This chapter does not create a cause of action, expand
14 an existing cause of action, or apply to the cause of action of
15 negligent retention.

16 3. This chapter does not apply to employment of prisoners
17 at prisons.

18 4. This chapter does not alter any statutory provision
19 allowing an employer to conduct a criminal history background
20 investigation or consider criminal history records in the
21 employment process for particular types of employment.

22 Sec. 2. NEW SECTION. 671A.2 Liability protection not
23 applicable.

24 1. This chapter does not preclude a cause of action for
25 negligent hiring by or the failure of a private employer,
26 general contractor, or premises owner to provide adequate
27 supervision of an employee, agent, or independent contractor,
28 based on evidence that the employee, agent, or independent
29 contractor has been convicted of a public offense as defined in
30 section 701.2, if all of the following criteria are met:

31 a. The private employer, general contractor, or premises
32 owner knew or should have known of the conviction.

33 b. The employee, agent, or independent contractor was
34 convicted of any of the following:

35 (1) A public offense that was committed while performing

1 acts substantially similar to those reasonably expected to
2 be performed in the employment or under the relationship or
3 contract, or under conditions substantially similar to those
4 reasonably expected to be encountered in the employment or
5 under the relationship or contract, taking into consideration
6 all of the following factors:

7 (a) The nature and seriousness of the public offense.

8 (b) The relationship of the public offense to the ability,
9 capacity, or fitness required to perform the duties and
10 discharge the responsibilities of the employment or the
11 relationship or contract.

12 (c) The extent and nature of the employee, agent, or
13 independent contractor's past criminal activity.

14 (d) The age of the employee, agent, or independent
15 contractor when the public offense was committed.

16 (e) The amount of time that has elapsed since the employee,
17 agent, or independent contractor's last criminal activity.

18 (f) The conduct and work activity of an employee, agent, or
19 independent contractor before and after the criminal activity.

20 (g) Evidence of the employee, agent, or independent
21 contractor's rehabilitation or rehabilitative effort while
22 incarcerated or after release.

23 (h) Other evidence of the employee, agent, or independent
24 contractor's fitness, including letters of recommendation from
25 any of the following:

26 (i) Prosecutors, law enforcement, or correctional officers
27 who prosecuted, arrested, or had custodial responsibility for
28 the employee, agent, or independent contractor.

29 (ii) The sheriff or chief of police in the community where
30 the employee, agent, or independent contractor resides.

31 (iii) Any other person in contact with the convicted
32 employee, agent, or independent contractor.

33 (2) A sexually violent offense as defined in section 229A.2.

34 (3) The offense of murder in the first degree under section
35 707.2.

1 (4) The offense of murder in the second degree under section
2 707.3.

3 (5) The offense of kidnapping in the first degree under
4 section 710.2.

5 (6) The offense of robbery in the first degree under section
6 711.2.

7 (7) An offense committed on certain real property for which
8 an enhanced penalty was received under section 124.401A or
9 124.401B.

10 (8) A felony offense where the employee, agent, or
11 independent contractor used or exhibited a dangerous weapon as
12 defined in section 702.7 during the commission of or during
13 immediate flight from the scene of the felony offense, or
14 where the employee, agent, or independent contractor used or
15 exhibited the dangerous weapon or was a party to the felony
16 offense and knew that a dangerous weapon would be used or
17 exhibited.

18 2. The protections provided to a private employer, general
19 contractor, or premises owner under this chapter do not apply
20 in a suit concerning the misuse of funds or property of a
21 person other than the employer, general contractor, or premises
22 owner, by an employee, agent, or independent contractor if, on
23 the date the employee, agent, or independent contractor was
24 hired, the employee, agent, or independent contractor had been
25 convicted of a public offense that included fraud or the misuse
26 of funds or property as an element of the public offense, and
27 it was foreseeable that the position for which the employee,
28 agent, or independent contractor was hired would involve
29 discharging a fiduciary responsibility in the management of
30 funds or property.>

31 2. Title page, by striking lines 1 and 2 and inserting <An
32 Act relating to the liability of private employers, general
33 contractors, and premises owners for negligently hiring
34 or failing to supervise employees, agents, or independent
35 contractors convicted of a public offense.>

H-8383 (Continued)

H-8383 FILED APRIL 17, 2018

HOUSE FILE 2487

H-8385

1 Amend House File 2487 as follows:

2 1. Page 1, by striking lines 32 and 33 and inserting
3 <forfeiture imposed upon a conviction for committing>

4 2. Title page, line 3, by striking <honey bees,> and
5 inserting <honeybees>

By KLEIN of Washington

H-8385 FILED APRIL 17, 2018



HF 2478 – Sales Tax on Construction Equipment Purchased by Dealers (LSB6178HV)
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Fiscal Note Version – Revised

Description

[House File 2478](#) removes the exclusion of construction equipment defined in Iowa Code section [423.3\(37\)](#) from the sale-for-resale sales tax exemption in Iowa Code section [423.3\(2\)](#).

Background

Under current law, the lease of equipment used in construction services (Iowa Code section [423.3\(37\)](#)) and the purchase of tangible personal property for subsequent resale (Iowa Code section [423.3\(2\)](#)) are exempt from sales and use tax. However, the purchase of construction equipment does not qualify for the sale-for-resale exemption if the construction equipment is ever leased to an entity that qualifies for the construction equipment exemption.

For example, if an equipment dealer purchased a piece of construction equipment with the intent to resell, no sales tax is owed. If that piece of equipment is first leased to a nonqualified entity, sales tax of 6.0% is due on the cost of the lease price of the piece of equipment. However, if at a later date the dealer leases the same piece of equipment to a qualified entity that is exempt from sales tax on the lease and uses the equipment in Iowa, the dealer would be responsible for paying the sales tax of 6.0% on the original acquisition cost of that piece of equipment.

Assumptions

- In FY 2017, 71 equipment dealers reported \$322.0 million in taxable sales, remitting \$19.3 million in sales tax. These 71 dealers also reported \$1.000 billion in exempt sales. (The previously reported 85 dealers identified by the Department of Revenue included 14 dealers that were later identified as different locations of the same dealer.)
- A survey of 41 dealers yielded eight responses. Although only 11.3% of total businesses, the total sales tax of these eight dealers represented approximately 40.0% of remitted sales tax.
- Of the total sales tax reported by these dealers, 2.2% is associated with purchased equipment that was originally purchased for resale but later became subject to sales tax because the equipment was instead leased.
- The Revenue Estimating Conference growth rates for sales and use tax are 4.5% in FY 2018 and 3.4% in FY 2019, and annual growth rates after that are assumed to be 3.9%.

Fiscal Impact

[House File 2478](#) is estimated to impact the General Fund, the Secure an Advanced Vision for Education (SAVE) Fund, and local option sales tax (LOST) revenues by at least the following amounts:

Estimated Impact of HF 2478

	<u>General Fund</u>	<u>SAVE</u>	<u>LOST</u>
FY 2019	\$ -377,000	\$ -75,000	\$ -58,000
FY 2020	-392,000	-78,000	-60,000
FY 2021	-407,000	-81,000	-63,000
FY 2022	-423,000	-85,000	-65,000
FY 2023	-439,000	-88,000	-68,000

Sources

Department of Revenue
Iowa Nebraska Equipment Dealers Association

/s/ Holly M. Lyons

April 17, 2018

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
